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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re T.V., a Person Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.V. et al.,

Defendants and Appellants.

B288335

(Los Angeles County
Super. Ct. No. DK19154B)

APPEAL from an order of the Superior Court of Los Angeles County, Robert S. Draper, Judge. Affirmed.

Judy Weissberg-Ortiz under appointment by the Court of Appeal, for Defendant and Appellant mother T.V.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Defendant and Appellant father S.A.

Marissa Coffey under appointment by the Court of Appeal, for Respondent minor T.V.

Mary C. Wickham, County Counsel, R. Kristine Miles, Assistant County Counsel, and Stephanie Jo Reagan, Principal Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Mother and stepfather appeal the juvenile court's order granting daughter's Welfare and Institutions Code section 388 petition and ordering her removed from her parents' custody without visitation.¹ The court ordered visitation to be reassessed at status hearings every 45 days with input from daughter's therapist and consideration of daughter's latest psychiatric evaluation. The parents argue that the visitation order improperly delegated all authority to daughter's therapist and daughter to decide whether visitation should occur.² Daughter and the Department of Children and Family Services (DCFS) filed respondents' briefs. We conclude the court's order did not constitute an improper delegation of authority and was not an abuse of discretion, and thus affirm.

FACTS AND PROCEDURAL BACKGROUND

This is the second appeal in a case involving two teenagers, son born February 2002 and daughter born July 2003.³ The facts stated below describing events leading up to and including the jurisdiction hearing are largely taken from our earlier opinion affirming the juvenile court's jurisdictional findings. (*In re T.V.* (Mar. 8, 2018, No. B281072) 2018 WL 1193482.) The present appeal is solely about a no visitation order issued after daughter filed a section 388 petition.

¹ All subsequent statutory references are to the Welfare and Institutions Code unless indicated otherwise.

² The parents join in each other's arguments.

³ Son has reunified with mother and stepfather, and jurisdiction has been terminated as to him.

1. Jurisdiction based on Mother's Drug Use

The children's biological father committed suicide in 2007 when daughter was four and son was five. Son found father's body. Approximately a year later, stepfather (who was 18 years old at the time) moved into the family home. Mother worked outside the home, and stepfather cooked, cleaned and took the son and daughter to school. Mother and stepfather married in 2013.

We observe that mother has older adult children, including a son, Nolan, who is of importance to the present case. Stepfather was originally Nolan's friend before stepfather entered into a romantic relationship with mother, who is 20 years his senior. We mention the age difference solely because a psychiatric expert makes note of this in her evaluation of mother and stepfather. Notably, mother is estranged from her family, which includes her adult children, her parents, and her three sisters.

On June 7, 2016, when daughter was 13 and son was 14, mother attempted suicide by overdosing on pills. Mother and stepfather had been arguing at home. Son saw mother try to grab stepfather while she was sitting on the bed. She could not reach him and fell on the ground instead. Son told stepfather to leave so the fight would not escalate, and stepfather left the home. Both son and daughter saw mother ingest several pills. The paramedics came, and mother was taken to the hospital. She tested positive for opioids and cocaine.

Mother remained in the hospital for several weeks, and the minors went to live with their adult brother, Nolan. DCFS interviewed mother who said she had used cocaine for many years "to get through daily life" and had had "a few suicide

attempts.” She had overdosed on pills because she was depressed about stepfather’s relationship with a female friend. After mother asked to meet the friend, stepfather brought the friend to lunch with mother and the minors. The following day, mother fought with stepfather about the friend, and then “began to take a lot of pills.”

On June 27, 2016, mother was granted a temporary restraining order against stepfather based on her statements that stepfather had physically “abused” her on the night of her attempted suicide, and “provided” her with cocaine and pain medications. DCFS interviewed the minors the following week. Although son viewed stepfather as a father, daughter’s attitude was different. She regarded stepfather not “as a father, but more as a friend.” She did not want to live with him.

When mother was released from the hospital, she reunited with stepfather. The minors remained living with Nolan. Mother agreed to enroll in a drug treatment program. In August 2016, mother tested positive for cocaine. By the end of the month, she still had not enrolled in a drug treatment program. In September 2016, mother tested positive for cocaine again. She denied using drugs.

On September 8, 2016, the Department filed a petition alleging the minors were endangered by mother’s illicit drug use, mental and emotional problems, and history of violent altercations with stepfather. The minors were detained with Nolan. Son wanted to return home and asked for visits with mother and stepfather. Daughter did not want to return home and did not want visits with stepfather. The court ordered weekly one-hour visits for mother with both minors; stepfather was allowed three hours of visitation with son per week.

On October 17, 2016, the court found stepfather to be the presumed father of the minors. Daughter objected to the finding: she viewed stepfather as a “stepparent and not her father.” (Based on these findings we sometimes refer to mother and stepfather as “parents.”)

In November 2016, both minors denied having witnessed any physical violence between mother and stepfather. However, the following month, daughter said mother and stepfather “would fight a lot like yelling at each other” and “would push each other.” She did not want to return home, saying she was angry at mother and stepfather for “recent events” including mother’s suicide attempt.

The minors continued to attend weekly one-hour visits with mother. Daughter did not want any additional time with mother, and continued to refuse visits with stepfather. Son enjoyed his weekly three-hour visits with stepfather and wanted more visits with him. Son did not request additional visits with mother.

Son, daughter, and Nolan testified at the January 20, 2017 jurisdiction hearing. Daughter stated that mother and stepfather would argue once a week. She saw mother push stepfather and throw things. Daughter was uncomfortable around stepfather because he smoked marijuana at home. He smoked about once a week in front of mother and the minors. Daughter preferred living with Nolan because he did not fight with his girlfriend, and they took her to school every day. Mother and stepfather sometimes slept late and did not take the minors to school.

Son testified that mother and stepfather fought once or twice a month. Son had seen them push each other, but mother was more aggressive. Mother broke a plate once during an

argument. He saw stepfather smoking marijuana once in the home. Son wanted to return home.

The court dismissed the allegations based on mother's mental and emotional problems and domestic violence. The court sustained the allegation that mother's history of illicit drug abuse endangered the minors, and ordered mother to participate in a drug treatment program and counseling. The court issued a home of parent order for both minors but ordered that daughter could remain living with Nolan.

Daughter timely appealed the court's order granting stepfather presumed father status and the court's dismissal of domestic violence allegations against the parents. We affirmed the juvenile court's findings.

2. Post-Disposition Reunification Efforts

Following the court's January 2017 jurisdiction findings and dispositional orders, son stayed in the care of his parents. By April 2017, Mother was in full compliance with the court-ordered case plan and desired to reunify with daughter. Mother drug tested clean, participated in a drug and alcohol program, attended a parenting course, and attended individual counseling. Mother was evaluated by a psychiatrist and diagnosed with Adjustment Disorder with depressed mood; no medication was prescribed. DCFS consistently observed in its reports that mother went above and beyond to comply with the case plan and rebuild her relationship with daughter.

Daughter attended weekly therapy and remained in the care of mother's adult son, Nolan, following the jurisdiction and disposition proceedings. Despite counseling and DCFS's efforts to facilitate visitation, daughter strongly maintained that she did not want to return home. Daughter did not return mother's daily

texts and she refused contact with stepfather. Son's relationship with daughter became more distant since his return home. Daughter did not speak much to him although they attended school together.

The family participated in two separate child family team conferences. At the first meeting, daughter, mother, and son were very emotional. The parties agreed that daughter and mother would visit twice per week for two hours at the DCFS office. The parents voiced concerns that daughter was being influenced by others. At the second meeting, daughter, Nolan, Nolan's girlfriend (who had a close relationship with daughter), the maternal grandparents, and daughter's therapist were present. The extended family expressed concern that they would be alienated from daughter if she were returned to mother's custody. Daughter was likewise fearful that she would be cut off from her extended family if she returned home. Daughter was emotional and cried numerous times during the meeting. Although she agreed to meet with mother, she asked that son be present for the visits. She was adamant not to have contact with stepfather. Daughter gave the social worker a written list of reasons why she did not want to be returned home, which included the parents moving her to a different high school, the parents' frequent fighting, mother's hallucinations or paranoia, stepfather's smoking, the parents' alienation of the extended family, and the parents' historical failure to regularly take her to school.

After these meetings, in March 2017, daughter had three visits with mother and son. The first visit went well and daughter appeared relaxed and happy with mother. The second and third visits went poorly, and daughter was less engaged and

more irritated with mother. Daughter then refused to attend visitation because it interfered with her after-school sports.

A third child family team conference was held in early April 2017 with the parents, son, and mother's counselor. There, the parents expressed their unhappiness that daughter was not participating in visitation and was participating in sports without their consent. The parents indicated that when daughter returned to the parental home she would not have contact with the extended family. Mother believed Nolan and the maternal extended family was influencing daughter against her. A few days later, daughter refused another visit with mother and said she did not want to see mother at all.

In mid-May, mother and daughter began attending conjoint therapy sessions with daughter's therapist Castellanos. There, they expressed their feelings to each other in a series of four to six sessions. They appeared to make some progress in the last two sessions. Daughter remained in individual therapy. At the end of May 2017, DCFS recommended that daughter return to the parental home so that daughter could rebuild relationships with mother and stepfather.

3. Daughter's Return Home

On June 2, 2017, the court ordered daughter to return to the parents' home. In response, daughter became extremely distressed at the courthouse. She threatened to harm herself. Mother refused to allow daughter to return to Nolan's home, instead indicating that daughter could live with stepfather's sister. Daughter refused. She begged to be allowed to live with Nolan and asked to return to the parental home next year. She cried to DCFS social workers and explained she did not want to return to mother's care because of the suicide attempt in front of

her, the smoking, and the fighting. The social workers assured daughter that mother was drug testing negative and things had changed in the home. Daughter eventually allowed the social worker to drive her to the parents' home. Daughter reacted poorly upon returning home. The social worker advised mother of daughter's threats of self-harm and instructed her to remove dangerous objects from daughter's reach.

Following her return home, daughter continued with individual therapy and conjoint therapy with mother and therapist Castellanos. Castellanos reported that daughter continued to struggle with anxiety related to past experiences in the family home. Daughter had not shared her trauma narrative with mother and felt overwhelmed being home. Daughter continued to participate in sports and have unmonitored visitation with Nolan and his girlfriend. Mother remained compliant with the case plan.

4. Daughter's Section 388 Petition to Remove Her from Parental Custody

About six weeks after her return home, on July 20 2017, two critical events occurred. First, at a section 364 status review hearing, DCFS recommended termination of jurisdiction with both children to remain in the parental home. Second, daughter's counsel filed a section 388 petition, requesting that she to be removed from the parents' custody and placed with relatives. The petition stated: "[Daughter] is suffering emotionally from being forced to reside in the home of her parents. She feels hopeless and that no one cares about her wellbeing. She cries when she thinks about life and in general feels sad. She has suffered real trauma [stemming] from knowing her mother attempted to commit suicide and having witnessed fights while in

the care of her parents. In as much as mother may have complied with court orders, [daughter] is not ready emotionally to live with her family.” The petition generally cited instances when mother became angry with daughter for no apparent reason, times when mother reprimanded her without cause, statements made by son that it is daughter’s fault they have to go to court, statements from mother that her adult son Nolan did not care about daughter, and daughter’s view that she did not feel emotionally supported at home.

At the July 20, 2017 hearing, the court terminated jurisdiction over son. Daughter was in tears throughout the proceeding and was eventually excused from the courtroom. Son and stepfather laughed throughout the hearing.

The following day, the court removed daughter from the parents’ custody, placed her with a maternal aunt over the parents’ objection, and set a contested hearing on the section 388 petition for August 2017. The court admonished the parents that despite daughter’s manifest distress during the prior day’s hearing, the court observed that mother had a vacuous look and stepfather and son could not stop laughing throughout the hearing. The court found by clear and convincing evidence that it would be detrimental for daughter to be in the parents’ home and ordered no visitation until after the August section 388 petition hearing. The court ordered daughter to undergo an Evidence Code section 730 evaluation (“730 evaluation”). A week later, the court ordered daughter to start therapy with a new therapist.

5. Daughter’s 730 Evaluation

In late August 2017, psychiatrist Dr. Nancy Kaser-Boyd performed a comprehensive psychological evaluation of daughter. Dr. Kaser-Boyd read DCFS’s detention, jurisdiction/disposition,

and interim reports. She interviewed daughter, Nolan, the maternal aunt who was presently caring for daughter, daughter's former therapist, and eventually, the parents. She recommended a 730 evaluation for mother. Her findings were submitted to the court in a September report and October supplemental report.

During the hour-and-twenty-minute interview, daughter told Dr. Kaser-Boyd that it was difficult living with mother prior to the initial detention. Daughter stated that after mother's brain aneurysm, mother was frequently "seeing things," believing people were watching her, and fighting with stepfather. Mother's brain aneurysm occurred when daughter was 12 years old. Daughter was 14 at the time of Dr. Kaser-Boyd's evaluation. Daughter stated that following her recent return to the home, mother was often rude to her, became angry at daughter for no reason, and later denied her actions. When daughter cried, mother and stepfather asserted her crying was fake. Daughter explained that she did not believe the claims that mother was now normal.

Daughter began sobbing while she talked to Dr. Kaser-Boyd about how desperate she felt when living with her parents during her recent stay with them. She told Dr. Kaser-Boyd, "I didn't want to be there and I thought if I wasn't alive anymore it would be better for everyone." Daughter clarified that she had not taken actual steps toward suicide, but was having persistent thoughts of "not being on earth." This appeared in part due to mother's conflicts with Nolan, who was an important person in daughter's life.

Daughter also discussed her previous therapy sessions. Daughter felt betrayed when her therapist began doing conjoint therapy. Dr. Kaser-Boyd noted that daughter's reaction was

unsurprising, “as well-trained therapists understand that they cannot do individual and conjoint therapy because of boundary issues.”

Daughter completed a personality assessment test. Daughter’s psychological test results reflected she was “moderately elevated on a scale called, ‘Suicidal Ideation.’” She reported experiencing periodic and perhaps transient thoughts of self-harm. In her report, Dr. Kaser-Boyd assessed that daughter was probably pessimistic and unhappy about her prospects for the future. The psychiatrist concluded that it was clear daughter would be “acutely distressed if the Court once again forces her to return to mother.” Dr. Kaser-Boyd stated that daughter was anxious and distressed in her evaluation, and her emotions appeared genuine—not the product of manipulation.

Dr. Kaser-Boyd’s supplemental report opined that the parents did not believe daughter was distressed or suicidal, and instead they asserted that daughter was being manipulative. Dr. Kaser-Boyd expressed concern that mother stated paranoid thoughts during her interview and took no responsibility for her estrangement from her extended family. Dr. Kaser-Boyd wrote that mother minimized her brain injury and that the injury likely affected her decision-making and empathy. She noted that “[s]tepfather simply mirrors [mother’s] beliefs and this is understandable considering her being 20 years his senior and quite verbal and domineering with him.” Dr. Kaser-Boyd indicated that normally she would suggest conjoint therapy between a child and an estranged parent, but given mother’s attitude and daughter’s resistance, Dr. Kaser-Boyd did not know if conjoint counseling would be successful.

6. Mother's 730 Evaluation

Based on Dr. Kaser-Boyd's evaluation report and over mother's objection, the juvenile court appointed Dr. Chuck Leeb to perform a 730 evaluation of mother. Dr. Leeb concluded that that mother's underlying neurobiological structure and overt behaviors were consistent with aspects of both borderline personality disorder and dependent personality disorder. He opined that when functioning at mother's level, it was difficult for a person to recognize one's own contributions to negative situations. He indicated that with a "psychic structure" like mother's, it could take years of consistent individual therapy for mother to function in a healthy manner. Dr. Leeb believed monitored visitation might be indicated if daughter wanted to visit and if mother demonstrated ongoing attendance in individual therapy, her 12-step program, and drug testing.

After receiving Dr. Leeb's 730 evaluation report, DCFS recommended daughter remain placed with the maternal aunt and for her to have monitored visitation with mother.

7. Daughter's Counseling with Her New Therapist

In August 2017, daughter entered into therapy with a new therapist, Stacie Ottison. Ottison reported that daughter participated consistently in weekly sessions but had been guarded since their second session. Daughter did not want to deal with her past issues or how those issues affected her future. Ottison believed daughter was still dealing with depression and lacked the tools to do so, often masking it with humor or silliness. Ottison felt she and daughter had developed a good amount of trust. Daughter reported to her that she liked the consistency of living at her aunt's home. Daughter was no longer expressing

suicidal thoughts, but Ottison was concerned that daughter's suicidal ideation would emerge again if she was returned home.

8. The Contested Section 388 Hearing

The hearing on the section 388 petition commenced on August 15, 2017 and proceeded over several months on nonconsecutive days. Evidence and argument ultimately concluded on January 29, 2018. The juvenile court received documentary evidence, summarized above, and heard testimony from: daughter, mother, stepfather, son, Georgina Castellanos (daughter's original therapist), Dr. Nancy Kaser-Boyd (daughter's 730 evaluator), Dr. Chuck Leeb (mother's 730 evaluator), Stacie Ottison (daughter's new therapist), the DCFS social worker on this case, and mother's therapist. We summarize pertinent (but not all) testimony below.

In their testimony, son, stepfather, and mother questioned daughter's suicidal ideation and indicated life at home was good. Following mother's October 2017 testimony, mother's counsel requested and the juvenile court ordered mother's monitored visitation to resume.

Immediately after the court ordered visitation to resume, daughter's temperament changed. Daughter had previously made progress with her new therapist and was finally opening up. Following the visitation order, daughter reverted back to her initial state of withdrawal, became guarded, and shut down in therapy. At the aunt's home, daughter's demeanor similarly changed. The visit with mother never occurred due to a scheduling conflict. DCFS reported that it would arrange a make-up visit.

At the next court session, Dr. Kaser-Boyd testified and explained that daughter was not being manipulative by

describing her suicidal ideation and that her thoughts were legitimate. Dr. Kaser-Boyd opined that living with someone with borderline personality disorder, like mother, was like walking on eggshells. The mentally ill parent's eruptions are so unpredictable that children in the home are often uneasy and anxious. Dr. Kaser-Boyd believed that daughter had post-traumatic stress disorder (PTSD) in remission, an anxiety disorder that increased her risk of depressive disorders. When asked whether visitation would be detrimental to daughter, Dr. Kaser-Boyd responded that visitation against daughter's will would be harmful because it would make her feel helpless and powerless. The psychiatrist explained that daughter lacked the skills necessary for visitation with mother. Daughter needed to develop better coping skills, better communication, and better ability to deal with provocative emotion in order to have visitation with mother. Dr. Kaser-Boyd indicated that daughter could be given another 730 evaluation to determine whether she has sufficiently developed these skills. Based on Dr. Kaser-Boyd's testimony and reports of daughter's changed behavior following the court's visitation order, the court temporarily suspended visitation. Daughter's normal demeanor in the aunt's home returned.

Dr. Leeb (mother's 730 evaluator) testified and confirmed that mother had borderline personality disorder and dependent personality disorder. People with such disorders, can be impulsive, engage in self-destructive behaviors, sometimes have transient paranoid ideations, and have difficulty relating to their children because they are unable to read non-verbal behaviors. Dr. Leeb concluded that no good would come from forcing daughter to visit with mother given daughter's strong resistance.

Daughter's current therapist, Stacie Ottoman testified to daughter's progress in therapy and the setback caused by the court's October 2017 visitation order. Daughter testified in chambers and stated there was nothing mother could do to help their relationship. Daughter was not open to conjoint counseling with mother or stepfather because she did not want to see them. Daughter explained that mother's suicide attempt was the straw that broke the camel's back, after years of the parents' fighting and mother's personal issues.

Daughter's counsel argued there was clear and convincing evidence that daughter should be removed from mother and stepfather. Counsel asked for no visitation and for conjoint therapy sessions to begin with an independent therapist when daughter's therapist deems them appropriate. DCFS joined in daughter's argument. Mother and stepfather's respective attorneys argued the section 388 petition should be denied and daughter returned home. Stepfather's counsel asserted: "[i]f the court is continuing a no-visitation order and not returning the child today, then I – I do think that we are required to come back on a monthly basis to readdress that lack of visitation."

The juvenile court took the matter under submission and continued proceedings until February 2018.

9. Juvenile Court Ruling

On February 9, 2018, the juvenile court issued a three-page written decision concluding that forcing daughter to live with mother, stepfather, and son would be extremely detrimental to her. The court made removal findings under section 361, subdivision (c), and granted daughter's section 388 petition.

At the hearing on February 9, 2018, the court sought to develop a plan to "remedy the issues with respect to [daughter]"

and “get [daughter] back into her home in a happy state.” The parties discussed reunification services. Mother’s counsel argued for family counseling and daughter’s counsel opposed, saying that family therapy would be extremely overwhelming for daughter. Daughter’s counsel requested no visitation with the parents and that conjoint therapy with mother begin when deemed appropriate by daughter’s therapist. DCFS again joined in daughter’s argument.

The court decided to suspend visitation and “have frequent, periodic hearings so that we’re not just out there as to what the child’s therapist says.” The court concluded hearings would occur every 45 days and set the next hearing for March 23, 2018. The court ordered DCFS “to consult with [daughter’s] therapist – [daughter’s] therapist’s input as to where we go next in terms of trying to repair this relationship. And pending that, there won’t be . . . visits unless the -- [daughter’s] therapist believes that she is ready for conjoint counseling, . . . her therapist will not be the conjoint counselor. The Department needs to find an independent conjoint counselor.” Based on the expert testimony from Dr. Kaser-Boyd and daughter’s therapist, the court also ordered a psychiatric evaluation of daughter, with those results to be produced at the March hearing. The parents timely appealed.

DISCUSSION

The parents do not challenge the order removing daughter from their care. They solely appeal the court’s visitation order, arguing that the court improperly delegated to daughter’s therapist all authority to determine whether visitation will occur.

1. The Parents' Arguments Are Not Forfeited

DCFS argues that mother and stepfather forfeited their arguments because they failed to object to the juvenile court's visitation order. (See *In re S.B.* (2004) 32 Cal.4th 1287, 1293 ["reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court"].) We disagree because at the hearing, mother and stepfather both asked for daughter to be returned to their home. Mother argued there was no safety risk to daughter at home and measures could be taken to make her feel safe at home. Mother also complained that there had been insufficient visitation since daughter had been in the care of relatives. Stepfather joined in mother's arguments. Mother and stepfather sufficiently argued the visitation issue in the trial court for us to consider it on appeal.

2. The Visitation Order Was Not an Abuse of Discretion

We first address whether the visitation order was proper. "An order setting visitation terms is generally reviewed for abuse of discretion." (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2006) 145 Cal.App.4th 692, 699, n. 6.) An abuse of discretion occurs when the juvenile court exceeded the bounds of reason. (*In re Emmanuel R.* (2001) 94 Cal.App.4th 452, 465.) We presume the order correct on appeal and will not substitute our judgment for that of the juvenile court where it is supported by evidence. (*Ibid.*)

"Visitation rights arise from the very 'fact of parenthood' and the constitutionally-protected right 'to marry, establish a home and bring up children.'" [Citation.] When the state removes children from their parents, it is obliged to make reasonable efforts to reunify the family. [¶] An obvious

prerequisite to family reunification is regular visits between the noncustodial parent or parents and the dependent children” (*In re Julie M.* (1999) 69 Cal.App.4th 41, 49.) Visitation “shall be as frequent as possible, consistent with the well-being of the child.” (§ 362.1, subd. (a)(1)(A).) However, “[n]o visitation order shall jeopardize the safety of the child.” (§ 362.1, subd. (a)(1)(B).) “[A] parent’s liberty interest in the care, custody and companionship of children cannot be maintained at the expense of their well-being. [Citation.] While visitation is a key element of reunification, the court must focus on the best interests of the children ‘and on the elimination of conditions which led to the juvenile court’s finding that the child has suffered, or is at risk of suffering, harm specified in section 300.’” (*In re Julie M., supra*, at p. 50.) “It is ordinarily improper to deny visitation absent a showing of detriment.” (*In re Mark L.* (2001) 94 Cal.App.4th 573, 580.)

Here, there was substantial evidence that daughter would suffer emotionally if immediately forced to visit the parents. Testimony from the parents and son, as well as their behavior in court showed they did not take daughter’s feelings and post-traumatic stress seriously. Expert testimony from Dr. Kaser-Boyd and therapist Ottison established that daughter was not emotionally or mentally equipped to resume visitation with mother or stepfather. Daughter lacked the necessary skills to cope with mother’s personality disorders and mental health issues. There appears to be a direct correlation between daughter’s suicidal ideation and being with mother. The psychiatrist and therapist both had concerns that the suicidal ideation would manifest itself again if daughter was forced into visitation. Testimony established that forced visitation would

also make this vulnerable teenager, who lacked the necessary coping skills to deal with mother's mental health issues, feel powerless. The possibility of daughters' self-harm was a real concern. We conclude the order initially suspending visitation temporarily was not an abuse of discretion.

3. The Visitation Order Was Not an Improper Delegation of Judicial Authority

We next address parents' argument that the court order improperly delegated judicial discretion to daughter's therapist to decide when visitation was to occur. It is well-established that "[t]he juvenile court has the sole power to determine whether visitation will occur and may not delegate its power to grant or deny visitation" to another entity. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1008–1009.) The parents liken this case to *In re Donovan J.* (1997) 58 Cal.App.4th 1474. There, the Court of Appeal reversed the juvenile court's visitation order that stated "Father has 'no visitation rights without permission of minors' therapists.'" (*Id.* at pp. 1476-1477.) The court reasoned that the order was an improper delegation of judicial authority because it "neither require[d] the therapists [to] manage visitation ordered, nor [did it] set[] criteria (such as satisfactory progress) to inform the therapists when visitation was appropriate," and gave the therapists "unlimited discretion to decide whether visitation is appropriate." (*Id.* at p. 1477.)

In making this argument, the parents mischaracterize the juvenile court's order and focus on a single sentence by the court, ignoring the court's statements and order as whole. Unlike the *Donnovan* court, the juvenile court here did not give daughter's therapist unlimited discretion to decide if visitation would occur. On the contrary, the court ordered no visitation, set a hearing 45

days out, ordered DCFS to consult daughter's therapist to obtain input about how to repair the parent-child relationship, and ordered another psychiatric evaluation of daughter to assess her coping and communication skills. The court made it clear that daughter's therapist's opinion was one source of information the court intended to use in deciding whether to commence visitation and/or conjoint therapy in the future. The court ordered the parties to return and sought additional information from the therapist and the psychiatrist to update its visitation decision at the March hearing. The court expressly stated that visitation was not left up to daughter's therapist, concluding that it would "have frequent, periodic hearings so that we're not just out there as to what the child's therapist says."

Mother asserts that the visitation order was improper because it did not "require the therapist to manage the visitation ordered by the court, nor did it set criteria for determining when visitation was appropriate or any guidelines for actual visits." Mother's argument again ignores that the therapist did not have any discretion to grant visitation. The court ordered no visitation and created a plan to review that decision every 45 days, at which time mother could argue that visitation should resume. The court, not the therapist, would make the decision. The court indicated that conjoint therapy between daughter and mother would commence when daughter was ready, but this would be a judicial decision, not solely a therapeutic one.

Father argues the visitation order effectively and improperly gave veto power to daughter as to whether visitation would occur. (See *In re Julie M.*, *supra*, 69 Cal.App.4th at p. 48 [holding "juvenile court did abuse its discretion in giving the children absolute discretion to decide whether Lorraine could

visit with them” where the visitation plan required the consent of the older children]; *In re S.H.* (2003) 111 Cal.App.4th 310, 319 [reversing a visitation order where the court gave the children the ability to refuse a visit without requiring some visitation to occur].) We disagree. Daughter was not in control of whether visits occurred. Rather, the court based its decision regarding visitation on expert testimony about daughter’s mental and emotional state and the experts’ evaluation of daughter’s ability to cope with the challenges presented by mother’s mental health issues. The court had ordered visitation, and even ordered daughter to live at home when the court found the circumstances warranted it. There is no reason to believe the court would not exercise its discretion reasonably in the future.

We do not address the parents’ arguments that their constitutional rights have been violated because these arguments are premised on an improper delegation of judicial authority or abuse of discretion. We have determined there was no improper delegation or abuse.

DISPOSITION

We affirm the juvenile court’s order.

RUBIN, J.*

WE CONCUR:

BIGELOW, P.J.

GRIMES, J.

* Presiding Justice of the Court of Appeal, Second Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.